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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,203	02/12/2002	Dale L. Kuhn	D5114	4422

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EXAMINER

ROSENBERG, LAURA B

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 03/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/074,203

Applicant(s)

KUHN ET AL

Examiner

Laura B Rosenberg

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 January 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,9,11 and 15 is/are rejected.
- 7) ☒ Claim(s) 2-8,10,12-14 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This office action is in response to the amendment received on January 2, 2004, in which claims 1 and 11 were amended.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Shaw (5,630,625). In regards to claims 1 and 11, Shaw discloses a wheeled motor vehicle (#1) that is propelled by a motor and comprises an ignition switch that can be turned on and off for turning the motor on and off (column 7, lines 52-53; inherent in a motor vehicle), an auxiliary lift axle (#50) that comprises wheels (#12, 35) that can be raised to lift wheels of the lift axle off an underlying surface (#2) on which the vehicle is supported (best seen in figures 2, 4) and that can be lowered to place the wheels of the lift axle on the underlying surface (best seen in figures 1, 3), and a control for raising and lowering the lift axle (best seen in figure 14) comprising a circuit (#113) that is fed through the ignition switch when the ignition switch is on but not when the ignition switch is off (column 7, lines 51-53) and that comprises a first switch device (#116) that requires actuation to enable the lift axle to be lowered ("auto" position) and a second switch device (#89) that, once the first switch device has been actuated to enable the lift

axle to be lowered, is effective upon being actuated to cause the lift axle to be lowered (float switch #89 is actuated to cause the lift axle to be lowered when the float switch senses fluid in the rear storage compartment).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 9 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw (5,630,625) in view of Richardson (6,398,236). In regards to claims 9 and 15, Shaw discloses a transmission for selectively placing the vehicle in a forward gear and a reverse gear (not shown; inherent). Shaw does not disclose the lift axle being raised when the vehicle has been placed in the reverse drive gear. Richardson teaches a wheeled motor vehicle (column 2, lines 20-23) comprising an ignition switch that can be turned on and off for turning a motor of the vehicle on and off, an auxiliary lift axle (#22) that can be raised to lift wheels of the lift axle off an underlying surface on which the vehicle is supported and that can be lowered to place the wheels of the lift axle on the underlying surface (column 4, lines 15-19) through the use of a selectively operable switch (#102), and a control for raising and lowering the lift axle (best seen in figures 3, 4). The motor vehicle includes a transmission (#132) for selectively placing the vehicle in a forward drive gear and reverse drive gear. With the lift axle having been lowered,

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placement of the transmission in reverse drive gear causes the control to raise the lift axle through the use of a third switch/relay (#134) that changes from one switch state to another switch state in response to occurrence of a signal indicating that the transmission (#132) of the vehicle has been shifted into a reverse drive gear (column 5, lines 41-43; column 5, line 61-column 6, line 8). It would have been obvious to one skilled in the art at the time that the invention was made to modify the wheeled motor vehicle and control of Shaw such that it comprised a raising of the lift axle when the vehicle is in the reverse drive gear as claimed in view of the teachings of Richardson so as to aid in steering when the vehicle is moving in reverse since self-steering of the lift axle is precluded when the vehicle is driven in a rearward direction (Richardson: column 1, lines 35-43).

#### ***Allowable Subject Matter***

6. Claims 2-8, 10, 12-14, and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter: the allowable subject matter in claims 2, 10, 12 and 16 is the first switch device comprising a relay.

#### ***Response to Arguments***

8. In reference to applicant's arguments regarding claims 1 and 11, Shaw's wheeled motor vehicle comprises an ignition switch that "can be turned on and off for

turning the motor on and off" because, as the applicant has pointed out, Shaw's ignition switch is able to perform this function.

9. The examiner agrees with the applicant's arguments regarding claims 2, 10, 12, and 16, in that Shaw's switch (#116) is not a relay, as the applicant has defined the relay. Thus, the prior art rejection for claims 2, 10, 12, and 16 has been withdrawn.

10. In reference to applicant's arguments regarding claims 9 and 15, motivation for the combination of the Shaw and Richardson references was set forth in the previous office action and has also been included in this office action.

### ***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura B Rosenberg whose telephone number is (703) 305-3135. The examiner can normally be reached on Monday-Friday 7:00am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (703) 308-2089. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Laura B. Rosenberg*

LBR

*Paul N. Dickson* 3/4/04

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